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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,807	10/24/2003	Dany Sylvain	7000-265	2655

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WITHROW & TERRANOVA, P.L.L.C.  
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SUITE 160  
CARY, NC 27518

EXAMINER
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SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
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2157

MAIL DATE	DELIVERY MODE
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08/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/693,807

Applicant(s)

SYLVAIN, DANY

Examiner

El Hadji M. Sall

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 102403.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is responsive to the application filed on October 24, 2003. Claims 1-36 pending. Claims 1-36 represent rehoming via tunnel switching.

2. ***Claim Rejections - 35 USC § 102***

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-10, 12-21, 23, 25-28, 30 and 32-35, are rejected under 35 U.S.C. 102(e) as being unpatentable over Yu et al. U.S. 7237260.

Yu teaches the invention as claimed including method for dynamic selection for secure and firewall friendly communication protocols between multiple distributed modules (see abstract).

As to claims 1 and 12, Yu teaches a method and a tunnel access server for facilitating communications between a user element and a protected network resource comprising:

- a) establishing a first tunneling session with the user element via a first access network (column 1, lines 49-51);
- b) assigning to the user element a first target network protected address for addressing packets intended for the protected network resource and traveling in part over the first tunneling session (column 3, lines 52-57);
- c) establishing a second tunneling session with the user element via a second access network (column 1, 51-55); and
- d) reassigning to the user element the first target network protected address for addressing packets intended for the protected network resource and traveling in part over the second tunneling session (column 3, lines 52-57).

As to claims 23 and 30, Yu teaches a method and a user element for facilitating communications between a user element and a protected network resource comprising:

- a) establishing a first tunneling session with a tunnel access server via a first access network (column 1, lines 49-51);
- b) sending packets intended for the protected network resource over the first tunneling session using a first target network protected address (column 3, lines 52-57);
- c) establishing a second tunneling session with the tunnel access server via a second access network (column 1, 51-55);
- d) receiving from the tunnel access server a target network protected address for sending packets intended for the protected network resource (column 1, lines 52-54; column 3, lines 52-57);
- e) determining if the target network address is the same as the first target network address (column 5, lines 24-29); and
- f) if the target network address is the same as the first target network address, sending the packets intended for the protected network resource over the second tunneling session using the first target network protected address (column 5, lines 29-35).

As to claims 2 and 13, Yu teaches the method and the tunnel access server of claims 1 and 12 wherein the first and second tunneling sessions are encrypted tunneling sessions (figure 4A).

As to claims 3 and 14, Yu teaches the method and the tunnel access server of claims 1 and 12 further comprising authenticating the first and second tunneling sessions with common authentication indicia (figure 4).

As to claims 4, 5, 15 and 16, Yu teaches the method and the tunnel access server of claims 1, 4, 12 and 15, respectively, wherein the first target network protected address is reassigned to the user element only when the second tunneling session is established within a predetermined period of time from termination or last use of the first tunneling session, and further comprising assigning to the user element a second target network protected address for addressing packets intended for the protected network resource and traveling in part over the second tunneling session when the second tunneling session is not established with the predetermined period of time (column 3, lines 39-63).

As to claims 6 and 17, Yu teaches the method and the tunnel access server of claims 1 and 12 further comprising terminating the first tunneling session and reserving the first target protected network address for the user element for a predetermined period of time for use in association with the second tunneling session (column 4, lines 21-23).

As to claims 7, 18, 25, 26, 32 and 33, Yu teaches the method, the tunnel access server and the user element of claims 1, 12, 23, 23, 30 and 30, respectively, further comprising:

- a) receiving a request from the user element for a second tunneling session (column 1, lines 52-54);
- b) terminating the first tunneling session (column 4, lines 21-23).; and
- c) enabling the second tunneling session (column 4, lines 29-33).

As to claims 8 and 19, Yu teaches the method and the tunnel access server of claims 1 and 12 further comprising receiving the packets from the user element and forwarding the packets to the protected network resource using the first target network protected address (column 2, lines 61-64).

As to claims 9, 20, 27 and 34, Yu teaches the method, the tunnel access server and the user element of claims 1, 12, 26 and 30, respectively, further comprising:

- a) receiving authentication indicia from the user element; and b) authenticating use of the second tunneling session by the user element based on the authentication indicia (column 4, lines 15-33).

As to claims 10, 21, 28 and 35, Yu teaches the method and the tunnel access server of claims 1, 12, 23 and 30 wherein the first and second access networks facilitate

communications with the user element using different communication technologies  
(column 4, lines 61-63).

**4. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11, 22, 24, 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu et al. U.S. 7237260 in view of Bahl et al., 7,020,464.

Yu teaches the invention substantially as claimed including method for dynamic selection for secure and firewall friendly communication protocols between multiple distributed modules (see abstract).



As to claims 11, 22, 29 and 36, Yu teaches the method, the tunnel access server and the user element of claims 10, 21, 28 and 35.

Yu fails to teach wherein at least one of the different communication technologies is a wireless communication technology.

However, Bahl teaches system and method for providing agent-free and no-packet overhead mobility support with transparent session continuity for mobility devices. Bahl teaches a wireless communication technology (column 5, lines 16-43).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Yu in view of Bahl to provide wherein at least one of the different communication technologies is a wireless communication technology. One would be motivated to do so to allow the devices to be mobile (column 1, line 23).

As to claims 24 and 31, Yu teaches the method and the user element of claims 23 and 30 wherein if the target network address is different than the first target network protected address, further comprising:

b) sending the packets intended for the protected network resource over the second tunneling session using the target network protected address (column 1, lines 59-63).

Yu fails to teach explicitly a) restarting applications communicating with the protected network resource.

However, Bahl teaches a) restarting applications communicating with the protected network resource (column 1, lines 44-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Yu in view of Bahl to provide a) restarting applications communicating with the protected network resource. One would be motivated to do so to allow saving the new changes.

**6. Conclusion**

Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

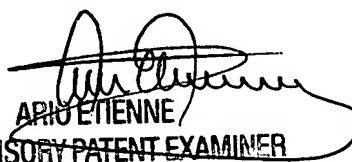
In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

El Hadji Sall  
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